

AMENDED IN ASSEMBLY SEPTEMBER 2, 1997

AMENDED IN ASSEMBLY AUGUST 25, 1997

AMENDED IN ASSEMBLY JULY 28, 1997

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AMENDED IN ASSEMBLY JULY 9, 1997

AMENDED IN ASSEMBLY JUNE 24, 1997

AMENDED IN SENATE APRIL 16, 1997

SENATE BILL

No. 472

Introduced by Senator Maddy

February 19, 1997

An act to amend Sections 6450, 6453, and 6455 of, to add Sections 6440, 6459, and 6460 to, and to repeal Section 6458 of, the Fish and Game Code, relating to fish, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 472, as amended, Maddy. Fish: triploid grass carp.

(1) Under existing law, the Department of Fish and Game may issue permits to use triploid grass carp to control aquatic plant pests under specified conditions only in the Counties of Imperial, Riverside, and San Bernardino. Existing law requires the department to report to the appropriate policy and fiscal committees of the Legislature on or before June 1 of each year on the use of triploid grass carp for aquatic plant pest control.

This bill would require the department to manage triploid grass carp and would require the department to define management for ~~purposes of the Fish and Game Code~~ *this purpose* to mean handling, controlling, destroying, or moving species.

This bill would also require the department, beginning in 1998, to include in a specified report to the appropriate policy and fiscal committees of the Legislature, its finding with respect to whether the use of triploid grass carp to control aquatic plant pests should be expanded to 6 more counties or statewide. Upon a finding that the use of triploid grass carp should be expanded to 6 more counties or statewide, the bill would provide for that expansion beginning January 1 of the following year. The bill would specify the 6 counties for expansion, if applicable. Under the bill, if the department finds that the use of triploid grass carp should not be expanded, the department would be required to reconsider that finding in the next year's report. If the department fails to submit the annual report as required, the bill would provide that it shall be conclusively deemed to be the finding of the department that the use of triploid grass carp to control aquatic plant pests should be expanded statewide beginning June 1 of that year.

By authorizing the issuance of permits in additional counties, the revenues from which would be deposited in the Fish and Game Preservation Fund, which is a continuously appropriated fund, the bill would make an appropriation.

This bill would provide that if the department obtains documented and verifiable evidence of escapements of triploid grass carp, unauthorized use of grass carp, or threats to fish, wildlife, and their habitats, and the Director of Fish and Game makes a written finding to that effect, the department may suspend the permit process, as specified.

(2) Existing law provides that the costs for conducting triploid grass carp programs during the first year of operation shall be funded by a loan from the Pooled Money Investment Account in the General Fund, as specified.

This bill would repeal those provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 6440 is added to the Fish and Game Code, to read:

6440. The Legislature finds and declares that triploid grass carp have the potential to control aquatic nuisance plants in non-public waters allowing for reduced chemical control but that the threat that grass carp pose to aquatic habitat may outweigh its benefits. It is the intent of this section to allow the Department of Fish and Game to use its management authority to provide for the long-term health of the ecosystem in the state including the aquatic ecosystem, and in that context, manage grass carp either through control of movement, eradication of populations, acquisition of habitat and any other action that the department finds will maintain the biological diversity and the long term, overall health of the state's environment. The department shall undertake the management of grass carp in a manner that is consistent with provisions of this code and for the purposes of this ~~code~~ section the department shall define management as handling, controlling, destroying, or moving species. The Legislature does not intend for this section to provide a right for the use of triploid grass carp if the department finds that use of the species poses an unacceptable risk to the state's existing ecosystem.

SEC. 2. Section 6450 of the Fish and Game Code is amended to read:

6450. The department shall adopt regulations that provide for the control of aquatic plant pests using artificially introduced triploid grass carp under a permit issued by the department. The regulations shall do all of the following:

(a) Restrict triploid grass carp introductions to those triploid grass carp that have been rendered sterile immediately after the eggs have been fertilized.

(b) Require individual fish to be checked to ensure that a third, triploid, set of chromosomes has been retained, preventing further reproduction by that individual fish.

1 (c) Limit aquatic plant pest control programs using
2 triploid grass carp to the use of sterile triploid grass carp
3 with documented certification of triploidy to ensure
4 sterility.

5 (d) Require the identification by tagging of individual
6 fish as the property of each owner.

7 (e) Require the posting of notices at stocked bodies of
8 water declaring the penalties for removing triploid grass
9 carp.

10 (f) Limit the permits for the use of triploid grass carp
11 in waters on golf courses located in residential areas to
12 those waters that are determined by the department to
13 be secure from the removal of triploid grass carp to
14 unauthorized waters.

15 (g) Provide for management of the triploid grass carp
16 populations in a manner consistent with the provisions of
17 this code where the department finds that such actions
18 will benefit the long-term health of the state's
19 biodiversity as a whole.

20 (h) Until January 1, 1999, the regulations shall not
21 authorize the issuance of permits for the use of triploid
22 grass carp in waters located within condominium areas of
23 any residential area for which a permit may not be issued
24 pursuant to subdivision (f) except at three locations
25 within the area authorized pursuant to this subdivision.
26 The three locations shall be selected by the department
27 in consultation with the Imperial Irrigation District. The
28 limitation to three locations is necessary to enable
29 monitoring of human-induced movement of triploid
30 grass carp to unauthorized waters and to permit the
31 evaluation of the impact of the experiment. The results
32 of the evaluation shall be reported to the Legislature
33 before the use of triploid grass carp is authorized in other
34 similar waters.

35 SEC. 3. Section 6453 of the Fish and Game Code is
36 amended to read:

37 6453. (a) On or before March 1 of each year following
38 the first year after triploid grass carp introduction, the
39 permittee shall provide to the department all of the

1 information required by the department, including, but
2 not limited to, the following:

3 (1) The number and size of triploid grass carp
4 recommended for the waterway stocked.

5 (2) The number and size of triploid grass carp stocked
6 in the waterway.

7 (3) The acres of aquatic plants, by species, at the peak
8 of the growing season in the year prior to introduction of
9 triploid grass carp in the waterway stocked.

10 (4) The acres of aquatic plants, by species, at the peak
11 of the current year growing season.

12 (b) The annual report shall be submitted until five
13 years after the use of triploid grass carp to control aquatic
14 plant pests is terminated, unless evidence acceptable to
15 the department is provided that all triploid grass carp
16 have been removed from the waterway.

17 (c) On or before June 1 of each year, the department
18 shall report to the appropriate policy and fiscal
19 committees of the Legislature a summary of the use of
20 triploid grass carp use for aquatic plant pest control
21 compiled from information from permittees annual
22 reports received pursuant to subdivision (a).

23 SEC. 4. Section 6455 of the Fish and Game Code is
24 amended to read:

25 6455. The department shall impose conditions in the
26 permit to use triploid grass carp under this article that it
27 finds necessary to prevent escape of the triploid grass
28 carp from the targeted area. The conditions shall include,
29 but are not limited to, the following:

30 (a) No permit shall be issued for the use of triploid
31 grass carp in waters with an open fresh water connection
32 to other waters of the state.

33 (b) Any waters in which triploid grass carp are used
34 under this article shall be under the control of the
35 permittee. In addition, barriers to fish movement
36 acceptable to the department shall be in place before
37 introduction of triploid grass carp under this article.
38 Movement of triploid grass carp to areas outside the
39 control of the permittee is prohibited.

1 (c) Any waters in which triploid grass carp are used
2 under this article shall have sufficient dissolved oxygen
3 and suitable vegetation for consumption to sustain the
4 introduced triploid grass carp, as determined by the
5 department.

6 (d) Except within closed basins, including the Salton
7 Sea, no permit shall be issued for the use of triploid grass
8 carp within the 100-year flood plain.

9 (e) Except as provided in Section 6459, permits may
10 be issued pursuant to this article only for the counties of
11 Imperial, Riverside, and San Bernardino.

12 (f) Any person or persons engaging in the
13 introduction of triploid grass carp into any area, or in the
14 transfer of triploid grass carp from one site to another,
15 without a permit from the department shall be punished
16 by a fine of not more than five thousand dollars (\$5,000),
17 by imprisonment in the county jail for not more than one
18 year, or by both that fine and imprisonment.

19 SEC. 5. Section 6458 of the Fish and Game Code is
20 repealed.

21 SEC. 6. Section 6459 is added to the Fish and Game
22 Code, to read:

23 6459. (a) In the report required by subdivision (c) of
24 Section 6453, beginning in 1998, the department shall
25 report to the appropriate policy and fiscal committees of
26 the Legislature its findings with respect to whether the
27 use of triploid grass carp for aquatic pest plant control
28 may be expanded in six more southern California counties
29 or statewide. The finding shall be based on documented
30 and verifiable evidence.

31 (b) If the department finds in the report required by
32 subdivision (c) of Section 6453 that the use of triploid
33 grass carp may be expanded to six more counties,
34 beginning January 1 of the following year, the
35 department shall authorize the use of triploid grass carp
36 for aquatic pest plant control in the counties of San Diego,
37 Orange, Los Angeles, Kern, Ventura, and Santa Barbara.

38 (c) If the department finds in the report required by
39 subdivision (c) of Section 6453 that the use of triploid
40 grass carp may be expanded to statewide, beginning

1 January 1 of the following year, the department shall
2 authorize the use of triploid grass carp for aquatic pest
3 plant control statewide.

4 (d) If the department finds in the report required by
5 subdivision (c) of Section 6453 that the use of triploid
6 grass carp should not be expanded to six more counties or
7 statewide, the department shall reconsider that finding in
8 the next year's report.

9 (e) If the department's annual report is, for any
10 reason, not submitted on or before June 1 of the year due,
11 it shall be conclusively deemed to be the finding of the
12 department that effective June 1 of that year, the use of
13 triploid grass carp to control aquatic plant pests should be
14 expanded statewide.

15 (f) Notwithstanding subdivisions (b) and (c), the
16 department may limit permit applications to no more
17 than 150 per fiscal year, and may prioritize the processing
18 of permit applications for purposes of administrative and
19 cost efficiencies.

20 SEC. 7. Section 6460 is added to the Fish and Game
21 Code, to read:

22 6460. If the department obtains documented and
23 verifiable evidence of escapements of triploid grass carp
24 permitted under this article into unauthorized waters,
25 the unauthorized use of grass carp, or threats to fish and
26 wildlife and their habitats as the result of this program, it
27 may, upon a written finding by the director to that effect,
28 suspend the permit issuance process authorized by this
29 article. If the situation is local, the suspension may be
30 limited to that area whose waters, habitat, and fish and
31 wildlife resources are threatened. The suspension shall
32 last until the director makes a written finding that the
33 threat has been abated.

